

PATRICK J. LEAHY, VERMONT, CHAIRMAN

HERB KOHL, WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
RUSSELL D. FEINGOLD, WISCONSIN
CHARLES E. SCHUMER, NEW YORK
RICHARD J. DURBIN, ILLINOIS
BENJAMIN L. CARDIN, MARYLAND
SHELDON WHITEHOUSE, RHODE ISLAND
RON WYDEN, OREGON
AMY KLOBUCHAR, MINNESOTA
EDWARD E. KAUFMAN, DELAWARE

ARLEN SPECTER, PENNSYLVANIA
ORRIN G. HATCH, UTAH
CHARLES E. GRASSLEY, IOWA
JON KYL, ARIZONA
JEFF SESSIONS, ALABAMA
LINDSEY O. GRAHAM, SOUTH CAROLINA
JOHN CORNYN, TEXAS
TOM COBURN, OKLAHOMA

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

BRUCE A. COHEN, *Chief Counsel and Staff Director*
STEPHANIE A. MIDDLETON, *Republican Staff Director*
NICHOLAS A. ROSSI, *Republican Chief Counsel*

March 24, 2009

The Honorable Patrick J. Leahy
Chairman
Senate Committee on the Judiciary
224 Dirksen Senate Office Building
Washington, D.C. 20510

Dear Patrick:


I write to request that you not schedule a hearing for the nomination of Judge David Hamilton to the Court of Appeals for the Seventh Circuit before the upcoming Senate recess. While I also have some concerns about scheduling a hearing on the nominations of Mr. Ron Weich to be Assistant Attorney General for Legislative Affairs and Mr. Gil Kerlikowske to be the Director of the Office of National Drug Control Policy for Wednesday, April 1, 2009, these concerns are not as significant as those I have about Judge Hamilton's nomination schedule.

On February 6, 2009, I wrote to you to convey my concern over the expedited schedule for consideration of several executive nominations and I suggested that, at a minimum, Senators should be afforded at least two weeks to evaluate executive nominees' records prior to their hearings. The Judiciary Committee did not receive Mr. Weich's or Mr. Kerlikowski's questionnaires until after 6 p.m. on Wednesday, March 18 and supplements to those materials were received on Friday, March 20. An April 1 hearing does not give the Committee a full two weeks to examine their records. Notwithstanding, I recognize the need to fill these important executive positions, and I am willing to move forward on these nominations before the Senate recess. A hearing for Judge Hamilton on April 1 is a different matter.

Judge Hamilton's nomination was announced on March 17, but the Committee did not receive his questionnaire until after 8:30 p.m. on March 18 and the attachments to his questionnaire arrived after 5:00 p.m. on March 19. Those materials were still not complete, and Judge Hamilton supplemented his materials on March 23. Judge Hamilton has been a district court judge for almost 15 years and has authored over 1200 opinions. In addition, he has submitted approximately 2000 pages of speeches, articles, and public policy papers relating to his nomination. Members cannot prepare for a hearing for a lifetime appointment to a circuit court in a mere thirteen days, especially when they are expediting review of two executive nominations. I also would note that, during the Bush Administration, Members were afforded an average of 138 days to evaluate a circuit court nominee prior to a hearing, and no nominee was considered in this short a period of time. Similarly, during the Clinton Administration, Members were afforded an average of 117 days to evaluate circuit court nominations. There are no extraordinary factors counseling expedited review of this nomination; the Seventh Circuit seat is not a judicial emergency and the seat has only been vacant for a few months.

I hope you will agree to postpone the hearing for Judge Hamilton until after the recess in order to give Members an appropriate amount of time to prepare.

Sincerely,


Arlen Specter

Pat - If you insist on this schedule for Hamilton, you will start on RE First Pres Obama nomination in a VERY contentious manner which will provoke opposition & prove counter productive.